

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:        John C. & Betty J. Mather                                )  
                 Map 13, Control Map 13, Parcel 9.00                ) Jefferson County  
                 Residential Property                                        )  
                 Tax Year 2006    )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$41,200	\$25,600	\$66,800	\$16,700

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 1, 2006 in Dandridge, Tennessee. In attendance at the hearing were Mr. and Mrs. Mather, the appellants, and Jefferson County Property Assessor Robert B. Cavanah and Susan Gass.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a nine acre tract improved with a residence and two sheds located on McGhee Road in New Market, Tennessee. The home was built around 1900 and suffers from termite damage, with repairs estimated by Mr. Mather at \$13,573.

The taxpayer contended that subject property should be valued at \$59,105. In support of this position, the taxpayers argued that the appraisal of their home and sheds should be modified as follows:

	<u>Current Appraisal</u>	<u>Contended Appraisal</u>
Home	\$20,310	\$12,694
Sheds	\$ 5,345	\$ 5,211

The taxpayers introduced a 32 page analysis which essentially sought to establish that their home and sheds should receive additional depreciation under the CAAS system. In addition, the taxpayers introduced three comparable sales to create a "cost comparison" they maintained supported a value of \$58,679.

The assessor contended that subject property should be valued at \$66,800. In support of this position, Mr. Cavanah introduced a copy of the April 25, 2006 decision of the Assessment Appeals Commission valuing subject property at \$66,800 for tax year 2005. Mr. Cavanah indicated that subject property was valued for tax year 2006 exactly as determined by the Commission for tax year 2005.



The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$66,800 as contended by the assessor of property. The administrative judge finds that for all practical purposes Mr. Cavanah moved for a directed verdict and said motion should be granted.

Since the taxpayer is appealing from the determination of the Jefferson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge recognizes that each tax year is independent and must stand on its own. However, the administrative judge finds the assessor's motion well taken for two reasons. First, there has been no material change in the fair market value of subject property between January 1, 2005 and January 1, 2006. Second, the taxpayers' methodology is very similar to that previously rejected by both the administrative judge and the Assessment Appeals Commission.

The administrative judge finds the only meaningful difference in the taxpayers' proof for tax year 2006 was the inclusion of comparable sales. Respectfully, the administrative judge finds that the "cost comparison" Mr. Mather developed from the comparables does not constitute a generally recognized appraisal practice. The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.



4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12<sup>th</sup> ed. 2001).

The administrative judge finds it puzzling why the taxpayers did not simply appeal the Commission's decision to court and seek to consolidate subsequent tax years. Although the taxpayers may be exempt from fees when appealing to the State Board of Equalization, they are not relieved from establishing a prima facie case. Regrettably, the administrative judge finds that the taxpayers' proof does not comport with the requirements of Tennessee law as previously explained by the Assessment Appeals Commission.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$41,200	\$25,600	\$66,800	\$16,700

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.


Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8th day of November, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: John C. & Betty J. Mather  
Robert Cavanah, Assessor of Property